

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PETER ROSKOVENSKY,  
Plaintiff,

- against -

SOTHEBY'S INTERNATIONAL REALTY  
AFFILIATES LLC,  
Defendant.

Docket No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Peter Roskovensky ("Roskovensky" or "Plaintiff"), by and through his undersigned counsel, as and for his Complaint against Defendant Sotheby's International Realty Affiliates LLC ("Sotheby's" or "Defendant") hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant's unauthorized reproduction and public display of a copyrighted video of a house and its surrounding property in Captiva, Florida, owned and registered by Roskovensky, a Florida based photographer. Accordingly, Roskovensky seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Roskovensky is a professional real estate photographer in the business of licensing his photographs and videos for a fee, having a usual place of business at 2710 Del Prado Blvd South, Unit 2-183, Cape Coral, Florida 33904.

6. Upon information and belief, Sotheby's is a foreign limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 1 Campus Drive, Parsippany, New Jersey 07054. Upon information and belief, Sotheby's is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Sotheby's has owned and operated a website at the URL: <http://www.premiersothebysrealty.com> and has operated their Youtube page (the "Websites").

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff's Ownership of the Video**

7. Roskovensky filmed a house and surrounding property of the house at 16560/562 Captiva Drive in Captiva, Florida (the "Video"). A true and correct copy of the Video is attached hereto in DVD form as in Exhibit A.

8. Roskovensky is the author of the Video and has at all times been the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

9. The Video was registered with the U.S. Copyright Office and was given Copyright Registration Number PAu 3-789-300.

**B. Defendant's Infringing Activities**

10. Upon information and belief, Sotheby's ran a real estate listing on the Websites to sell a home \$5 Million Dollar home. See

<http://stephaniebissett.premiersothebysrealty.com/eng/sales/detail/245-l-1871-lf3qmz/16560-562-captiva-dr-captiva-fl-33924-captiva-naples-captiva-fl-33924> and

<https://www.youtube.com/watch?v=W1rXBM2gcM4>. The Websites prominently featured the Video to sell the home. True and correct copies of the Video on the Websites are attached hereto in a DVD in Exhibit B.

11. Sotheby's did not license the Video from Plaintiff for its Websites, nor did Sotheby's have Plaintiff's permission or consent to publish the Video on its Websites

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST SOTHEBY'S)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Sotheby's infringed Plaintiff's copyright in the Video by reproducing and publicly displaying the Video on the Websites. Sotheby's is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Video.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Sotheby's have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a direct and proximate cause of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and defendant's profits pursuant to 17 U.S.C. § 504(b).

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Video, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

19. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Sotheby's be adjudged to have infringed upon Plaintiff's copyright in the Video in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Video; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded his costs, expenses and attorney's fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
May 23, 2017

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